

REPORT - PLANNING COMMISSION MEETING
April 14, 2005

Project Name and Number: Matta Development Conditional Use Permit (PLN2003-00308)

Applicant: George Matta

Proposal: To consider a conditional use permit application for modifications to the separation and yard requirements for a 4-unit residential project in the R-G-24 zoning district in the Northern Plain Planning Area

Recommended Action: Approve, based on Findings and subject to Conditions

Location: 34479 Fremont Boulevard

Assessor Parcel Number(s): 543 0247160 02 and 543 0247 159 00

Area: Total lot size: Approximately 0.29 acres

Owner: George Matta

Environmental Review: This project is categorically exempt from the California Environmental Quality Act per CEQA Guideline Section 15332 for In-fill Development Projects

Existing General Plan: Medium Density Residential (18 to 23 dwelling units per acre)

Existing Zoning: R-G-24, Garden Apartment Residence District

Existing Land Use: Unoccupied single family residence

Public Hearing Notice: Public hearing notification is applicable. A total of 216 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Darwin Drive, Fremont Boulevard, Greenland Terrace, Nantucket Common, Oroville Court and Somerset Terrace. The notices to owners and occupants were mailed on March 28, 2005. A Public Hearing Notice was delivered to The Argus on March 28, 2005, to be published by March 31, 2005.

Background and Previous Actions: On May 28, 1987, the Planning Commission approved Z-87-4, a rezoning of the project site from A, Agricultural District to R-G-24, Garden Apartment Residence District. Consistent with the rezoning, the Planning Commission also approved U-87-8, a conditional use permit for the operation of three paramedic substations located at three separate sites, one of which included the project site. Regional Medical Systems operated the paramedic substation out of the existing single-family residence. The company ceased operations at the site in the summer of 2003. The current applicant has already received approval at the staff level for a parcel map to subdivide the site into four units, subject to the resolution of separation and yard requirements. The approval of the requested conditional use permit will cause the prior conditional use permit, U-87-8, to be no longer valid.

Project Description: The applicant is requesting approval of separation and yard requirements, which do not conform to the R-G-24 zoning standards. Under the Fremont Municipal Code (FMC), a conditional use permit is required for modifications to the separation and yard requirements in the R-G-24 zoning district [FMC Section 8-2805(d)]. The project site is approximately 12,915 square feet and is situated on the southwestern corner of the Fremont Boulevard and Darwin Drive intersection. The site consists of two parcels: (1) the main parcel, APN 543 0247160 02, is approximately 12,384 square feet and (2) a narrow triangular parcel along Darwin Drive, APN 543 0247 159 00, is approximately 531 square feet. The total lot width of the project site is approximately 91.86 feet and the depth is approximately 153.88 feet, which meet the minimum lot size requirements of the R-G-24 zoning district. The separation and yard exceptions are detailed in the zoning conformance section of this report.

The existing single-family residence, detached garage and accessory structure will be demolished and replaced by the townhouse style 4-unit residential development. As noted above, the parcel map to subdivide the site into 4 lots has already been approved at a staff level subject to the resolution of separation and yard requirements. Therefore, the applicant is seeking modifications to several separation and yard requirements of the R-G-24 zoning district with this conditional use permit application.

Project Analysis:

General Plan Conformance: The existing General Plan Land Use designation for the project site is Medium Density Residential, 18 to 23 dwelling units per acre. The proposed project is consistent with the existing General Plan Land Use designation for the project site because the proposed project implements Land Use Element Policies. The following General Plan Policies are applicable to the proposed project:

- **Land Use Element Policy – LU 1.9:** To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate. Criteria for the location of higher density housing include access to transit, proximity to commercial areas, proximity to a collector or arterial street, and as a transition use where maximum flexibility in site design is required. For those areas where higher densities are indicated in the General Plan Diagram, construction of housing at significantly lower densities than planned would not meet the City's goals. The City therefore establishes a minimum required density of development for all medium and high density residential uses ~.

Analysis: The approved parcel map for the 4-unit townhouse project meets the minimum density requirements, which were in place when the project was originally submitted. The policy's direction to provide "maximum flexibility in site design" applies to the proposed modifications to the separation and yard requirements due to the density, location and irregular shape of the site.

- **Land Use Element Policy – LU 1.25:** Where several multi-family projects are on adjacent parcels of land, a variety of architectural and site design treatments shall be encouraged. However, an architectural or landscape design theme for several parcels may be appropriate.

Analysis: The project site is adjacent to properties to the northeast and southwest with the same Medium Density Residential, 18 to 23 dwelling units per acre, General Plan Land Use designation. The property to the north, on the opposite corner of the intersection of Fremont Boulevard and Darwin Drive, is a commercial development and the properties to the northwest is a single-family residential development of Low Density Residential, 5 to 7 dwelling units per acre. By granting the requested modifications to the separation and yard requirements, the applicant is able to provide a site design consistent with this policy by maintaining the character of the neighborhood, while also providing variety in terms of the built environment that currently exists.

Zoning Conformance: The project site currently has a zoning designation of R-G-24, Garden Apartment Residence District. A multi-unit residential development is a permitted use within the Garden Apartment Residence District [Fremont Municipal Code (FMC) Section 8-2801]. The proposed subdivision is typical of the surrounding uses and development in the neighborhood.

FMC Section 8-2805(d) allows modifications to the separation and yard requirements of the R-G-24 zoning district by a conditional use permit approval. The applicant seeks the following modifications to the separation and yard requirements:

1. FMC Section 8-2805(d)(3) – "Between buildings and a public street right-of-way or private street easement: Twenty feet for one- and two-story buildings, and twenty-five feet for over two-story buildings. Minor encroachments may be made to within twelve feet, six inches, subject to community development director approval~"

Analysis: The proposed separation between the building and the public street right-of-way, at the northern corner of the proposed building, closest to the intersection of Fremont Boulevard and Darwin Drive, is 19 feet. The separation between the buildings and the public street right-of-way along Darwin Drive varies between 20 to 23 feet and along Fremont Boulevard is generally between 22 to 24 feet, which meet the requirement of the R-G-24 zone. As such, the request is for a one-foot exception to the requirement.

2. FMC Section 8-2805(d)(4) – “Between private open space enclosures and a public street right-of-way: Ten feet.”

Analysis: The proposed separation between the private open space enclosures and the public street right-of-way, at the northern corner closest to the intersection of Fremont Boulevard and Darwin Drive, is 8.5 feet. The modification is required because the City of Fremont encroached on the applicant's property with the location of a traffic signal control box and a portion of a handicap accessible ramp and the applicant will be dedicating a 56 square foot, 1.5-foot wide, crescent shaped land around the curb of Fremont Boulevard and Darwin Drive. The modification to the separation between the private open space enclosures and the public street right-of-way is between the proposed sound wall and the proposed public right-of-way dedication.

3. FMC Section 8-2805(d)(6)(a) – “Between a building and a paved area intended to be used for vehicular parking or circulation: Fifteen feet, but may be reduced to ten feet where end walls of a building are not directly accessed to the vehicular accessway.”

Analysis: The proposed separation between the building and the guest parking space is 1 foot. The applicant proposes two covered parking spaces for each of the four units with a total of eight covered parking spaces, which meets the parking requirement for a 4-unit residential development [FMC Section 8-22003(a)(2)(c).] Additionally, two guest parking spaces have been proposed between the building and the interior lot line. The separation from the guest parking spaces to the interior lot line is 6 feet and the separation from the building to the parking spaces is 1 foot. Staff will require appropriate landscape treatment in the 1-foot space during the Development Organization review process.

4. FMC Section 8-22009(b)(2) – “A minimum ten foot wide area between any off-street parking area or circulation area and any interior lot line abutting lots in residential districts or designated for future residential use on the general plan shall be landscaped with fast growing trees, shrubs and ground covers and shall be free of inorganic material.”

Analysis: The proposed separation between the guest parking spaces and the interior lot line, abutting a lot with residential uses, is 6 feet. 3.5 feet of the 6 feet separation will be the pedestrian access which provides access from Fremont Boulevard into the development along the interior property line. Staff will require appropriate landscape and lighting treatment in the 6-foot space during the Development Organization review process.

Modification to the City's Development Policy for Driveways: The applicant proposes to eliminate the existing driveways and driveway cuts on Fremont Boulevard and Darwin Drive. Access is proposed from a new driveway on Darwin Drive and is located 70 feet from the intersection. Two policies are relevant to the new driveway.

- Policy 1.b: No portion of a driveway opening shall be located closer than one hundred feet from the nearest point of intersection of public rights-of-way lines or such lines extended for a single driveway opening permitted under standard 1.a(2).
- Policy 3.i: Standards may be modified by the Public Works Director if evidence justifies such modification as being necessary to the development and if it will not adversely affect the street carrying capacity.

The City's Engineering Division has reviewed the project and recommends this modification, as it does not adversely affect the traffic capacity of Darwin Drive.

Circulation/ Access Analysis: This project site is a corner parcel at the Fremont Boulevard and Darwin Drive signalized intersection. Pedestrian access is provided by a walkway connection to the public sidewalk on Fremont Boulevard. Vehicular access is provided by a private vehicle access way (PVAW) and driveway on Darwin Drive. A PVAW is a type of private street used for multi-unit residential developments. The PVAW provides access to the garages and guest parking stalls. The property owner will be responsible for the maintenance and utility costs associated with the PVAW.

Geologic Hazards: The site proposed for development is located within a liquefaction hazard zone, as delineated on the State of California Seismic Hazard Zones, Newark Quadrangle, released July 2, 2003. According to the Seismic Hazard Mapping Act, the City shall require, prior to the approval of a project located in a seismic hazard zone, a geotechnical report defining and delineating any seismic hazard.

The project applicant submitted a report by Terrasearch Incorporated, dated February 26, 2004. The report was an update to a previous report dated October 2, 2003. The report concluded that the site has potential for minor liquefaction induced settlements on this site in the event of a major seismic event combined with an elevation in ground water. The project site is geotechnically suitable for the proposed subdivision, provided that the geotechnical recommendations within the report are implemented during construction. The report was reviewed and approved by the City's geotechnical peer review consultant and filed with the State Geologist. The geotechnical recommendations in the approved report will be incorporated into the project design and construction. (Condition # B-7)

Noise Study: The site proposed for development is located at the intersection of Fremont Boulevard, an arterial street and Darwin Drive, a collector street. The project applicant submitted a report by Wilson, Ihrig & Associates, Incorporated, dated July 25, 2004. The report concluded that the site will be exposed to future exterior noise levels of greater than 60 Ldn at some building facades. The report provides mitigation measures for exterior wall, window and ventilation construction based on achieving interior noise levels below 45 Ldn. Additionally, the sound wall along Fremont Boulevard is recommended to be 8 feet high to minimize noise level in the private open space areas for Units 3 and 4. The noise study recommendations in the approval report will be incorporated into the project design and construction. (Condition # A-6)

Development Impact Fees: The project shall be subject to all Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities, park facilities, park dedication fees and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. (Condition # A-3) Credit may be provided for the existing single family home proposed to be demolished.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

Environmental Analysis: This project is categorically exempt from the California Environmental Quality Act per CEQA Guideline Section 15332 for In-fill Development Projects.

Response from Agencies: County of Alameda Public Works Agency requests that the applicant comply with the comments and suggestions of letter dated June 12, 2002.

Neighborhood Concerns: As of the date of writing this report, staff has received no calls from the neighbors with concerns about the project. The applicant was advised to meet with the neighbors in order to discuss the proposed project and its impact on the neighborhood.

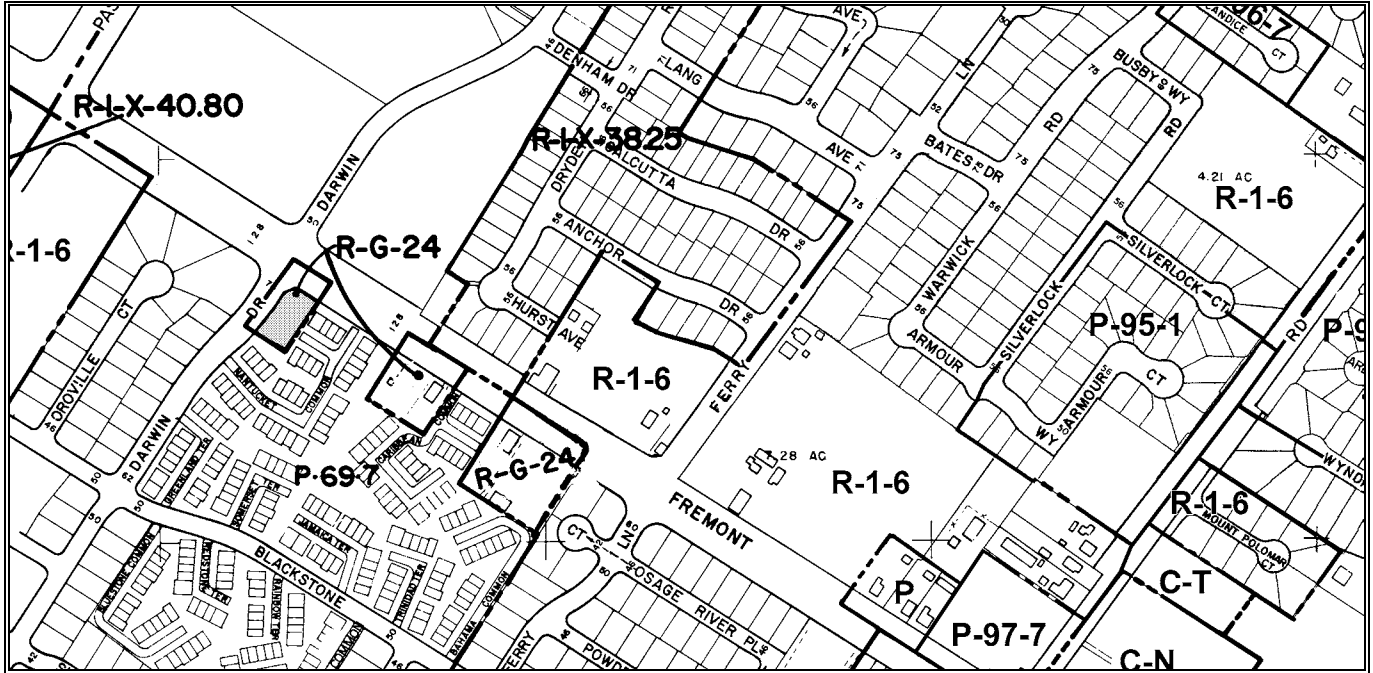
Enclosures:	Exhibit "A"	Site Plan
Exhibits:	Exhibit "A"	Site Plan
	Exhibit "B"	Findings and Conditions of Approval

Recommended Actions:

1. Hold public hearing.
2. Find PLN2003-00308 is exempt from CEQA per Section 15332.
3. Find PLN2003-00308 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapters as enumerated within the staff report.
4. Approve Conditional Use Permit PLN2003-00308, as shown on Exhibit "A", subject to Findings and Conditions on Exhibit "B".

Existing Zoning

Shaded Area represents the Project Site



Existing General Plan

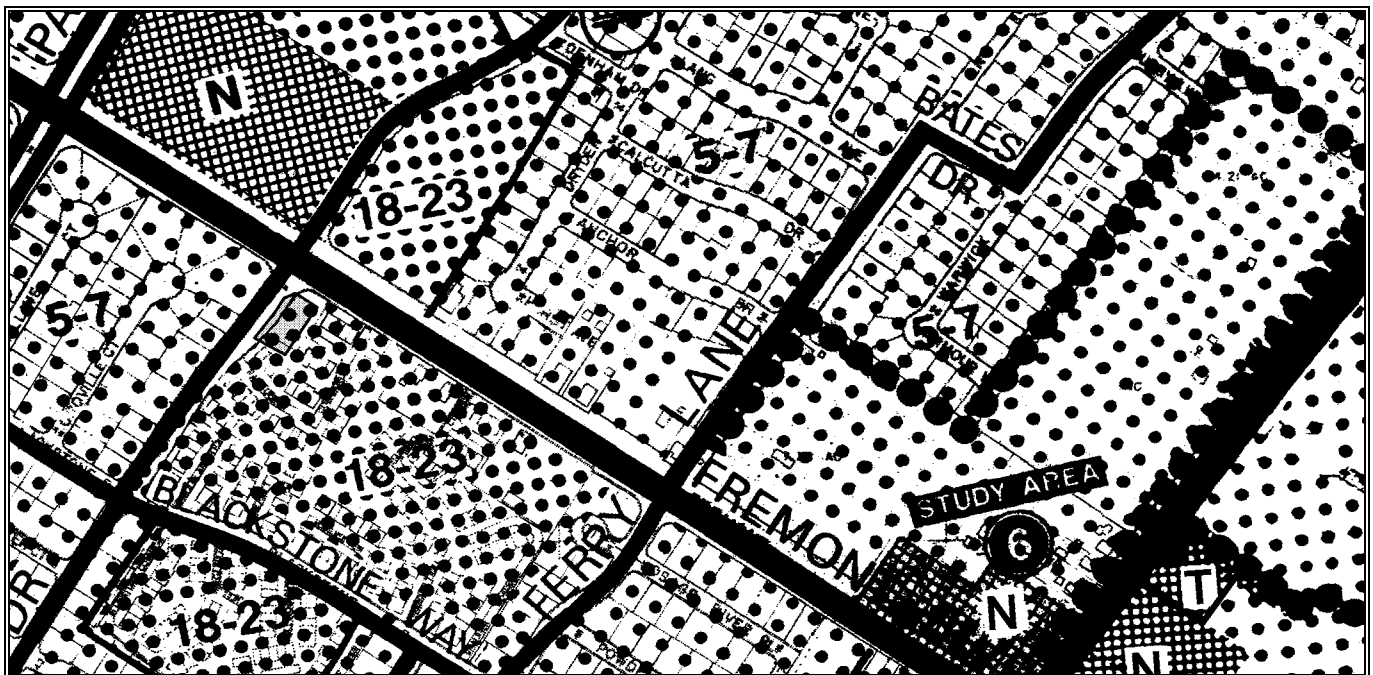


Exhibit "B"
Findings and Conditions of Approval for PLN2003-00308
Matta Development Conditional Use Permit
34479 Fremont Boulevard

Findings:

1. The site is suitable and adequate for the proposed use because the use is a permitted use in the R-G-24 zoning district and there is sufficient on-site parking.
2. The proposed use is consistent with the General Plan because the proposed project implements General Plan Land Use Element Policies and the density range of the proposed project is in conformance with the density requirements in place when the project was submitted, which required development within 80% of the lower density range of the Medium Density Residential, 18 to 23 dwelling units per acre, designation for this site.
3. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because the site has good access from Darwin Drive.
4. The proposed use would not have a substantial adverse economic effect on nearby uses because it is a residential use, which is consistent with the surrounding uses of the project site.
5. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because it is a residential use, which is consistent with the surrounding uses of the project site. The site is well served by utilities. None of the responsible utility companies have stated they will be unable to provide the required services to the site.
6. Exceptions from standard separation and yard requirements, and Development Policy for Driveways, is warranted by the design and amenities incorporated in the site plan, as well as the density and irregular shape of the parcel, as incorporated through the conditional use permit process.

General Conditions:

- A-1. The project shall conform to Exhibit "A" (Site, Floor and Elevation Plans) and all conditions of approval set forth herein.
- A-2. Plans shall be submitted to the Development Organization for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- A-3. The approval of conditional use permit PLN2003-00308, will supercede conditional use permit, U-87-8. The paramedic substation use at this site will no longer be valid.
- A-4. The project shall be subject to City-wide Development Impact Fees. These fees may include fees for fire protection, park facilities, park dedication, capital facilities and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. A credit may be provided for the single-family home which is proposed to be demolished.
- A-5. External lighting shall be provided for private streets, PVAW and pedestrian access. Details, including a photometric study and 'cut-sheets' of proposed fixtures, shall be submitted to the Development Organization for review and approval. To ensure that there are no impacts to adjacent properties, on-site light fixture design, height, intensity and direction shall be designed and oriented to ensure that there is no creation of glare or spilling of light beyond property boundaries.

- A-6. Visual privacy shall be provided to each multiple-family dwelling unit through the use of open space between buildings, landscaping treatment and structural screening.
- A-7. Design and construction of the residences shall implement the recommendations in the approved Noise Study by Wilson, Ihrig & Associates, Inc., dated July 25, 2004. Auditory privacy between multiple-family dwellings shall be provided through soundproofing, building separation and landscaping in conformance with the Uniform Building Code.
- A-8. Visible television and radio antennae shall be restricted to one antenna per principal structure.
- A-9. Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.
- A-10. Hours of construction shall be limited to 7:00 A.M. to 6:00 P.M. Monday through Friday, and 9:00 A.M. to 6:00 P.M. Saturday. No construction shall be permitted on Sunday and holidays.
- A-11. Prior to beginning demolition of the existing structures on the project site, the applicant must file a Project Waste Handling Plan with Environmental Services. After completing demolition and new construction, the applicant must file a Post-Project Waste Disposal & Diversion Report with Environmental Services.

Engineering Conditions

- B-1. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
- B-2. All new utility service connections, including electrical and communications, shall be installed underground. In no case shall a transformer be visible from any public or private right-of-way.
- B-3. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
- B-4. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- B-5. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.
- B-6. Site grading and building construction shall implement the recommendations in the approved Geotechnical Engineering Study by Terrasearch, Inc., dated February 26, 2004.
- B-7. Any future construction at the project site shall comply with standard dust suppression measures. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. In areas where construction is delayed for an extended period of time, the ground shall be re-vegetated to minimize the generation of dust. A person shall be designated to oversee the implementation of dust control.
- B-8. Grading operations shall be supervised by an engineer registered in the States of California to do such work. City staff will assume inspection responsibility for street grading at a point six inches below planned sub grade.

- B-9. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
- B-10. The applicant/owner shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer and Alameda County Flood Control and Water Conservation District. A separate plan shall be submitted for this purpose.
- B-11. The applicant/owner shall submit a detailed soils report including recommendations regarding structural sections, prepared by a qualified soils engineer registered by the State of California.
- B-12. All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer.
- B-13. The developer shall provide for a functional drainage system subject to approval of the City Engineer and Alameda County Flood Control and Water Conservation District.
- B-14. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
- B-15. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
- B-16. The minimum drainage slope in swales shall be 1.5%.

Landscape Conditions

- C-1. All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. The current copy of the LDRP is available at the Engineering Counter.
- C-2. The one existing Privets at the southern property line (at the wood fence) shall be preserved.
- C-3. A total of 5 street trees of 24" box size shall be planted as follows: 2 ea on Fremont Boulevard and 3 ea on Darwin Drive. Street tree locations and species shall be reviewed during Development Organization review and planting shall be in conformance with City Standard Tree Detail SD-34.
- C-4. All planting areas containing trees shall be free of all utility structures and other built features consistent with the spacing requirements of City Standard Detail SD-34 City Standard Street Tree Clearances.
- C-5. Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
 - a. Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
 - b. Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
 - c. Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide, preferably 8 feet wide.

Fire Department Conditions

- D-1. The applicant shall install an automatic fire sprinkler system in each building for fire protection purposes.
- D-2. Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A 13R or 13D with local amendments (Lots 3, 4 and 5).
- D-3. The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
- D-4. Address must always be visible from Public Street.
- D-5. The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.